

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT ANDREW FABER,

Plaintiff,

v.

CHRISTA GARCIA,

Defendant.

Case No. 1:18-cv-472

HON. JANET T. NEFF

OPINION AND ORDER

Plaintiff, proceeding pro se, filed this action against Defendant. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending that this Court dismiss Plaintiff's complaint. Now pending before the Court is Plaintiff's "Motion to Reply to Report and Recommendation," which was docketed as Plaintiff's objection to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objection has been made. The Court denies the objection and issues this Opinion and Order.

Plaintiff objects to the Magistrate Judge's analysis, opining that the Magistrate Judge improperly characterized his claim against Defendant as a claim for retaliation, rather than a claim based on Defendant's failure to investigate (ECF No. 15 at PageID.33). However, the Magistrate Judge did not mischaracterize Plaintiff's claim. The Magistrate Judge accurately summarized Plaintiff's allegation that "Garcia approved Smith's decision without first investigating Plaintiff's harassment claims" and that "Plaintiff initiated this action alleging that Garcia failed to protect

him from Smith's act of retaliation" (R&R, ECF No. 14 at PageID.29). Plaintiff's objection therefore lacks merit, and he proffers no other argument that would warrant rejecting the Magistrate Judge's conclusion that Plaintiff's allegations fail to state a claim and that his complaint should be dismissed pursuant to 28 U.S.C. § 1915(e)(2).

Accordingly, the Court will adopt the Magistrate Judge's Report and Recommendation as the Opinion of this Court. Because this Opinion and Order resolves all pending claims, a Judgment will also be entered. *See* FED. R. CIV. P. 58. Because this action was filed *in forma pauperis*, this Court also certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal of the Judgment would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007). Therefore:

IT IS HEREBY ORDERED that the Objection (ECF No. 15) is DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 14) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of the Judgment would not be taken in good faith.

Dated: September 4, 2018

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge